

# TASMANIAN RACING APPEAL BOARD

## Appeal No 10 of 2022-23

<b>Panel:</b>	<b>Mr Patrick O'Halloran</b>	<b>Appellant:</b>	<b>Mr Liam Riordan</b>
<b>Advisor:</b>	<b>Mr Chris Taylor</b>		
<b>Appearances:</b>	<b>Mr Bruce Free (on behalf of the Stewards)</b>	<b>Rules:</b>	<b>AR 131(a) Careless riding</b>
<b>Heard at:</b>	<b>Prospect Government Offices 171 Westbury Road PROSPECT TAS &amp; via Microsoft Teams</b>	<b>Penalty:</b>	<b>Suspension for 2 Tasmanian race dates (commencing midnight 10/03/23 to midnight 19/03/23)</b>
<b>Date:</b>	<b>15 March 2023</b>	<b>Result:</b>	<b>Penalty varied to suspension for 1 Tasmanian race date</b>

### REASONS FOR DECISION

1. The appellant Mr Liam Riordan, is a jockey based in Victoria, he files an appeal against penalty only.
2. On Wednesday 1 March 2023, Mr Riordan attended the Tasmanian Turf Club meeting at Mowbray racecourse, Launceston where amongst other rides, he was engaged to ride WOLF REIN in Race 3.
3. Following his riding of WOLF REIN, in Race 3, the Stewards filed a complaint of Careless Riding under the provisions of AR 131(a) against Mr Riordan. That rule provides:

*A Rider must not, in the opinion of the Stewards: ... (a) engage in careless, reckless, improper, incompetent or foul riding*

4. The Stewards particularised the riding as :

*“that he permitted his mount to shift in at about the 1200 metres, tightening the running of GEE GEES RHYTHM in onto SPIRITED TOFF and ZADE’S STORIES, which clipped heels, restrained and lost its position, also resulting in RAVAGE being tightened and easing.”*

5. Mr Riordan plead guilty to the charge with the Stewards imposing the penalty that his licence to ride in races was suspended for a period of 2 (two) *Tasmanian* Race dates (*emphasis* added).

6. In assessing penalty Stewards articulated within their reasons for decision that they had considered *inter alia* Mr Riordan's guilty plea, his riding record in relation to this rule and the determination that the carelessness was in the mid-range.
7. In regard to the bases of Mr Riordan's appeal, his appeal notice provided that '*I believe the severity of the penalty is to (sic) high for the interference*'. Mr Riordan represented himself before the Board. His submission(s) to the board – broadly summarised – pertained to his contention(s) that:
  - a. the carelessness could not properly be characterised as mid-range offending of that type, and
  - b. proper consideration had not been given to his status as a Victorian based rider and the impact that the Tasmanian specific penalty would have on him - ie the practical effect of the penalty imposed resulted in a disproportionately high(er) penalty upon him because of his Victorian racing commitments.
8. Within submissions made to this Board at the appeal hearing, Mr Free on behalf of the Stewards, elaborated on and confirmed that factors taken into account included - in terms of the riding and classification of the carelessness falling within 'mid range' - that the riding had involved : (i) three horses tightening, (ii) the horse(s) clipping heels, (iii) that the interference occurred when the horses were out the front of the field.
9. Mr Free submitted that Stewards had further properly taken into account in their determination of this issue, as is clear in the transcript, all the evidence given by other riders within the initial Stewards inquiry. The Board observes no error in this regard.
10. Further Mr Free (again with reference to the transcript of the initial Stewards inquiry which clearly supported his submissions), submitted that factors taken into account - specific to the professional circumstances of Mr Riordan – included:
  - a. That Mr Riordan had entered a guilty plea to the complaint laid against him - with the resultant reduction/discount that may normally be attributable to a guilty plea for charges of this type of complaint being applied ( i.e. consistent with the penalty practices of the Stewards the commonplace reduction of one Tasmanian race date on pleas of guilty).
  - b. Mr Riordan's racing record, broadly categorised, was not a good record ( in consideration of his age and length of time riding) and
  - c. That the Stewards at first instance had taken into account the actual schedule of upcoming Tasmanian race meetings – as they were aware that there was a live issue as to what the real and instant impact would be of their penalty with reference to race meetings that were coming up in Tasmania and Victoria. On this point Mr Free outlined to the Board that as at 1 March 2023, there would be Tasmanian race meeting on the Wednesday immediately following, so that in practical terms the Stewards assessed that the suspension of two Tasmanian race dates would be enlivened and cover in a practical sense a seven day period.
11. In regard to the Appellants' submission stated above (at paragraph 7(b)) – in regard to a time line of the application(s) in this matter, it is relevant to note that:

- a. the initial inquiry was conducted on 1 March 2023, with the decision of the Stewards also imposed on that date
  - b. (as was confirmed and agreed to by the parties in this appeal) on or about 1 March 2023 a deferral of that penalty was sought and granted, such that, the deferral of the penalty ended on or about 10 March ('the deferred period').
12. It was further agreed between the parties that – in the absence of an appeal against **conviction** being filed – Mr Riordan had no ability to then seek a stay of the penalty once the deferred period had concluded.
  13. The effect of this timeline therefore resulted in, in practical terms, that between the end of the deferral period and the appeal hearing date of 15 March 2023, Mr Riordan was required to commence serving the penalty that Stewards imposed on 1 March 2023.
  14. Within the appeal hearing the Board further confirmed that in the event the appeal was withdrawn or unsuccessful the impact of the Steward's decision of 1 March 2023 would impact Mr Riordan up to and including midnight 19 March 2023.

### **Was the level of interference and/or carelessness 'mid-range'?**

15. The board has had the benefit of the advice of the advisor Mr Chris Taylor and has carefully considered the relevant race film. For the avoidance of doubt, consistent with the practices of this Board and the legislative framework in which decisions are required to be made, the decision made is exclusively that of the presiding member of the Board.
16. Within the *ex tempore* reasons for decision provided at the conclusion of this appeal hearing on 15 March 2023 the Board stated that because of the bases of the second submission of Mr Riordan (which succeeded – see further below), the Board was of the view that it did not, at that stage, need to determine whether there was error in the classification of the riding as mid-range.
17. In brief summary the Board finds that, on assessment of the totality of the circumstances pertaining to the riding and its *consequential* impact, there is no discernible error in the Steward's classification as mid range.

### **Disproportionally harsher penalty as rider based in Victoria**

18. In regard to his second ground of appeal (that the penalty was too harsh or disproportionate to the offending) Mr Riordan submitted - in writing and in submissions to the Board - that as at 9am on 15 March 2023 he would have or had in fact missed 7 Victorian meetings – with the related impact including that he was not able to take rides until this appeal was 'sorted'.
19. In regard to the period of time, up until the date of the appeal hearing, where he had missed seven Victorian meetings, he further submitted that this had resulted in him losing the potential to obtain over six thousand dollars in prizemoney and ride three winners.
20. In regard to the timeline (noting the submissions of the Stewards in this appeal that they had imposed a penalty with consideration to the Tasmanian race schedule and on the fair assumption that there would be no deferral or stay) the Appellant

submitted that his decision to choose to seek a deferral was the only means which he could use to meet his obligations in regard to rides that, as at 1 March 2023, he had already accepted.

### **Decision**

21. The Board confirms that this decision does not seek to, and should not be seen to, set any authoritative general precedent regarding the impact of Tasmanian Steward's penalties on interstate riders.
22. It is the Board's positions that in consideration of *inter alia* (i) the specific schedule of Tasmanian race meetings that were present as at March 2023, (ii) the specific timings of when this Board could hear this appeal and (iii) the race schedule meetings in Victoria, that the circumstances in which the Appellant finds himself are not usual and can be seen to have some unique characteristics.
23. As such it is the view of the Board that in consideration of the specifics of when the Stewards inquiry handed down their decision and the specific time line referred to of the deferral and the absences of the ability to grant a stay and the hearing of this matter and the now scheduled Tasmanian race dates that the initial decision to impose a penalty of a suspension of two Tasmanian race dates is varied to a suspension of one Tasmanian race date.
24. As the decision of the Stewards having been varied, the Board orders that the appellant forfeit twenty five percent of his prescribed deposit to the Secretary of the Department pursuant to s.34(1A) and (2)(d). Further, the Board orders that the appellant pay twenty five percent of the cost incurred in preparing the transcript of the inquiry pursuant to s.34(4A) and (4B)(c).

**DATED: 29 MAY 2023**